

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

SANDRA DRAKE and RANDY SMITH,)
on behalf of themselves and others)
similarly situated,)

Plaintiffs,)

vs.)

STEAK N SHAKE OPERATIONS, INC.)
(an Indiana Corporation))

Defendant.)

Case no.: 4:14-cv-1535

**PAINTIFFS' MOTION TO DISMISS DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT AS TO WOLFSHOEFER**

COMES NOW the Plaintiffs, on behalf of themselves and all others similarly situated, and hereby moves this Court for an order dismissing the Defendant's Motion for Summary Judgment as to the Claims of Katrina Wolfshofer (Doc. 158). Given the Court's December 22, 2017 order (Doc. 170) denying Defendant's Motion Decertify Plaintiffs' Conditional Certified FLSA Collective Action (Doc. 134), seeking summary judgment for an individual collective class member based on affirmative defenses Defendant asserts against the entire class is no longer appropriate, and is an attempt to circumvent the Court's order. In summary, give this Court's order, the Defendant's Motion is moot. Plaintiffs have filed a supporting memorandum.

WHEREFORE, the Plaintiffs respectfully request that this Court issue an order dismissing the Defendant's Motion for Summary Judgment as to the Claims of Katrina Wolfshofer (Doc. 158).

Respectfully submitted,



/s/ Brendan J. Donelon

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ATTORNEYS FOR PLAINTIFFS

Certificate of Service

Plaintiffs hereby certify that a true and correct copy of the foregoing was sent on January 16, 2018 to the following Defense counsel of record email addresses per the requirements of this Courts CM/ECF practices and procedures.

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